



U.S. Department of Justice

*United States Attorney  
Western District of Pennsylvania*

*Federal Courthouse  
Room A330  
17 South Park Row  
Erie, Pennsylvania 16501-1158*

814/452-2906

May 9, 2006

Thomas W. Patton, Assistant  
Federal Public Defender  
1001 State Street  
1111 Renaissance Centre  
Erie, Pennsylvania 16501

Re: United States of America v.  
JOHN JOSEPH PRICE, JR.  
Criminal No. 04-50 Erie



Dear Mr. Patton:

This letter sets forth the agreement by which your client, JOHN JOSEPH PRICE, JR., will enter a plea of guilty in the above-captioned case. The letter represents the full and complete agreement between JOHN JOSEPH PRICE, JR. and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, JOHN JOSEPH PRICE, JR. will be sentenced under the Sentencing Reform Act, 18 U.S.C. §3551, et seq. and 28 U.S.C. §991, et seq. The Sentencing Guidelines promulgated by the United States Sentencing Commission will be considered by the Court in imposing sentence. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States District Court by a preponderance of the evidence.

A. The defendant, JOHN JOSEPH PRICE, JR., agrees to the following:

1. He will enter a plea of guilty to Count One of the Indictment at Criminal No. 04-50 Erie, charging him with violating Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

LIMITED OFFICIAL  
USE

2. He acknowledges his responsibility for the conduct charged in Counts Two through Seven of the Indictment at Criminal No. 04-50 Erie and stipulates that the conduct charged in those Counts may be considered by the Probation Office or by the Court in imposing sentence.
3. If the Court imposes a fine or restitution as part of a sentence of incarceration, JOHN JOSEPH PRICE, JR. agrees to participate in the United States Bureau of Prisons' Inmate Financial Responsibility Program, through which 50% of his prison salary will be applied to pay the fine or restitution.
4. At the time JOHN JOSEPH PRICE, JR. enters his plea of guilty, he will deposit a special assessment of \$100 in the form of cash, or check or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.
5. JOHN JOSEPH PRICE, JR. waives the right to take a direct appeal from his conviction or sentence under 28 U.S.C. §1291 or 18 U.S.C. §3742, subject to the following exceptions:
  - (a) If the United States appeals from the sentence, JOHN JOSEPH PRICE, JR. may take a direct appeal from the sentence.
  - (b) If (1) the sentence exceeds the applicable statutory limits set forth in the United States Code, or (2) the sentence unreasonably exceeds the guideline range determined by the Court under the Sentencing Guidelines, JOHN JOSEPH PRICE, JR. may take a direct appeal from the sentence.
  - (c) As a condition of his guilty plea, JOHN JOSEPH PRICE, JR. may take a direct appeal from his conviction limited to the following issue: whether his motion to suppress the evidence seized from his residence was properly denied. If JOHN JOSEPH PRICE, JR. takes a direct appeal raising this issue and prevails in the appeal, he may withdraw his plea of guilty. If he does not take a direct appeal or does not prevail in the appeal, the plea of guilty shall stand.

The foregoing reservations of the right to appeal on the basis of specified issues do not include the right to raise issues other than those specified.

JOHN JOSEPH PRICE, JR. further waives the right to file a motion to vacate sentence, under 28 U.S.C. §2255, attacking his conviction or sentence, and the right to file any other collateral proceeding attacking his conviction or sentence.

B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:


1. After the imposition of sentence, the United States Attorney will move to dismiss the remaining Counts of the Indictment at Criminal No. 04-50 Erie, without prejudice to their reinstatement if, at any time, JOHN JOSEPH PRICE, JR. is permitted to withdraw his plea of guilty. In that event, JOHN JOSEPH PRICE, JR. waives any double jeopardy, statute of limitations, speedy trial, or similar objections to the reinstatement of the Counts dismissed pursuant to this agreement.
2. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing Court of the full nature and extent of the involvement of JOHN JOSEPH PRICE, JR. in the offenses charged in the Indictment and of any other matters relevant to the imposition of a fair and just sentence.
3. Prior to sentencing, the United States Attorney will, orally or in writing, recommend that, pursuant to §3E1.1 of the Sentencing Guidelines, the Court reduce the offense level by 2 levels for acceptance of responsibility on the ground that JOHN JOSEPH PRICE, JR. timely manifested acceptance of responsibility.
4. The United States Attorney will take any position she deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

C. JOHN JOSEPH PRICE, JR. and the United States Attorney further understand and agree to the following:

1. The penalty that may be imposed upon JOHN JOSEPH PRICE, JR. is:
  - (a) A term of imprisonment of not more than twenty (20) years;
  - (b) A fine of \$1,000,000;
  - (c) A term of supervised release of at least three (3) years;
  - (d) A special assessment under 18 U.S.C. §3013 of \$100.
2. The parties stipulate that the type and quantity of List I Chemical attributable to JOHN JOSEPH PRICE, JR. in this case for the purposes of §2D1.11(e)(2) of the Sentencing Guidelines is at least 214 grams but less than 714 grams of hypophosphorous acid. This stipulation includes all relevant conduct, under §1B1.3 of the Guidelines, and represents the parties' best understanding on the basis of the information available as of the date of this agreement. The stipulation is not binding upon the Court and does not preclude the parties from bringing to the attention of the United States Probation Office or the Court any information not within their knowledge at the time this agreement is executed.
3. This agreement does not preclude the government from pursuing any civil or administrative remedies against JOHN JOSEPH PRICE, JR. or his property.
4. The parties agree that, although charges are to be dismissed pursuant to this agreement, JOHN JOSEPH PRICE, JR. is not a prevailing party for the purpose of seeking attorney fees or other litigation expenses under Pub. L. No. 105-119, §617 (Nov. 26, 1997) (known as the Hyde Amendment). JOHN JOSEPH PRICE, JR. waives any right to recover attorney fees or other litigation expenses under the Hyde Amendment.

This letter sets forth the full and complete terms and conditions of the agreement between JOHN JOSEPH PRICE, JR. and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

Very truly yours,



MARY BETH BUCHANAN  
United States Attorney

I have received this letter from my attorney, Thomas W. Patton, Assistant Federal Public Defender, have read it and discussed it with him, and I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.

  
JOHN JOSEPH PRICE, JR.

6-16-06  
Date

Witnessed by:



THOMAS W. PATTON, ASSISTANT  
FEDERAL PUBLIC DEFENDER  
Counsel for JOHN JOSEPH PRICE, JR.